

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:03CR76

UNITED STATES OF AMERICA

VS.

**ROBERT WARREN
VIKI WARREN**

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)
) **FIRST PRELIMINARY**
) **ORDER OF FORFEITURE**
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THIS MATTER is before the Court on the Government's motion for a first preliminary order of forfeiture.

There being no response to the motion filed by the Defendants, the motion will be granted.

IT IS, THEREFORE, ORDERED that the Government's motion for a First Preliminary Order of Forfeiture is **ALLOWED**.

IT IS FURTHER ORDERED that the Defendants shall forfeit to the United States the following property, and such property is hereby forfeited to the United States pursuant to 18 U.S.C. §§ 981 and 982, 28 U.S.C. § 2461(c), 21 U.S.C. § 853, and Fed. R. Crim. P. 32.2, as proceeds of, gross receipts of, property involved in, and property traceable to the offenses of conviction, subject to the provisions of 21 U.S.C. § 853(n):

- a. United States currency in the amount of \$173,647.56**, with accumulated interest since the deposit of the currency in an interest-bearing account by the Clerk of Court, being the amount of United States currency remaining in the civil

forfeiture case, *United States of America v. Undetermined Amount*, Civil No. 1:02cv112, and which amount is currently in the possession of the Clerk of Court of the Western District of North Carolina.

b. United States currency in the amount of \$599,467.70, with accumulated interest since the deposit of the currency in an interest-bearing account by the United States Marshal's Service, which amount of currency is currently in the possession of the United States Marshal's Service as part of the civil forfeiture case of *United States of America v. 16.9 Acres, et al.*, Civil No. 1:02cv113.

c. Seventeen tracts of real property:

1. Property located on Smith Cove Road, Buncombe County, North Carolina, containing approximately 16.99 acres, and found in Buncombe County Deed Book 1775, Page 177.
2. Property located on Smith Cove Road, Buncombe County, North Carolina, containing approximately 28.46 acres, and found in Buncombe County Deed Book 2015, Page 427.
3. Property located off of Dave Whitaker Road, Henderson County, North Carolina, containing approximately 19.44 acres, and found in Henderson County Deed Book 966, Page 221.
4. Property located on J.D. Hooper Estate, tracts #4 and #6, in Henderson County, North Carolina, containing approximately 32.44 acres, and found in Henderson County Deed Book 970, Page 613.
5. Property located off of Gladly Fork Road, Buncombe County, North Carolina, containing approximately 36.54 acres, and found in Buncombe County Deed Book 2068, Pages 580 and 583.
6. Property located on Black Cove Road, Buncombe County, North Carolina, containing approximately 50 acres and found in Buncombe County Deed Book 1930, Page 223, which was substituted for a Hartford Financial Services Group, Inc., annuity, account number 710473987.
7. Property located at 1396 Kilgore Bridge Road, Spartanburg County, South Carolina, containing approximately 113.96 acres, and found in Spartanburg County Deed Book 069E, Page 779.

8. Property located at SR 1353 off Hooper Lane Road, Henderson County, North Carolina, containing approximately 1.86 acres, and found in Henderson County Deed Book 982, Page 041.
9. Property located at Tract A and Lot 2, J.D. Hooper Estate, Henderson County, North Carolina, containing approximately 16.10 acres, and found in Henderson County Deed Book 982, Page 796.
10. Property located at 112 Smith Cove Road, Buncombe County, North Carolina, containing approximately 1.00 acres, and found in Buncombe County Deed Book 2087, Page 515.
11. Property located on Lower Beaverdam Loop Road, Buncombe County, North Carolina, containing approximately 2.53 acres, and found in Buncombe County Deed Book 2184, Page 893.
12. Property located off of Dave Whitaker Road, Henderson County, North Carolina, containing approximately 1.35 acres, and found in Henderson County Deed Book 1021, Page 227.
13. Property located off of Dave Whitaker Road, Henderson County, North Carolina, containing approximately 155.86 acres, and found in Henderson County Deed Book 1073, Page 45.
14. Property located at 46 Billy Cove Road, Buncombe County, North Carolina, containing approximately 1.13 acres, and found in Buncombe County Deed Book 2330, Page 820.
15. Property located on Beaverdam Loop Road, Buncombe County, North Carolina, containing approximately 4.30 acres, and found in Buncombe County Deed Book 2386, Page 388.
16. Property located at 115 Casey Road in Spartanburg County, South Carolina, containing approximately 5.0 acres, and found in Spartanburg County Deed Book 073Y, Page 962.
17. Property located on Beaverdam Loop Road, Buncombe County, North Carolina, containing approximately 26.43 acres, and found in Buncombe County Deed Book 1144, Page 79.

IT IS FURTHER ORDERED that, pursuant to Fed. R. Crim. P. 32.2(b)(3), 18 U.S.C. § 982(b)(1), and 21 U.S.C. § 853(f), the United States or its designee is hereby authorized to seize all of the above-described property, whether held by the Defendants or third parties.

IT IS FURTHER ORDERED that, pursuant to Fed. R. Crim. P. 32.2(b)(1), a personal money judgment in the amount of \$7.3 million is hereby entered against Robert Warren and Viki Warren, jointly and severally. This judgment shall first be satisfied by forfeiture of the property

listed in Paragraph 94 of the Bill of Indictment herein, or property substituted by agreement for such property, and by forfeiture of the property, or property substituted by agreement for such property, listed in the three related civil forfeiture cases: *United States v. 16.99 acres, et al.*, Civil No. 1:02cv113, filed May 9, 2002; *United States v. Undetermined Amount*, Civil No. 1:02cv112, filed May 9, 2002; and *United States v. One Ford Ranger Truck, et al.*, Civil No. 1:02cv114, filed May 9, 2002.

IT IS FURTHER ORDERED that, pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish at least once a week for three successive weeks in the *Asheville-Citizen Times*, Asheville, North Carolina, the *Spartanburg Herald-Journal*, Spartanburg, South Carolina, and the *Greenville News*, Greenville, South Carolina, newspapers of general circulation, notice of this Order, notice of its intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the Defendants, having or claiming a legal interest in any of the above-listed forfeited property must file a petition with the Court within 30 days of the final publication of notice or of receipt of actual notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in each forfeited property and any additional facts supporting the petitioner's claim and the relief sought. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in property that is the subject of this Order of Forfeiture, as a substitute for published notice as to those persons so notified.

IT IS FURTHER ORDERED that, pursuant to 18 U.S.C. § 982(b)(1), 21 U.S.C. § 853(m), and Fed. R. Crim. P. 32.2(b)(3) and (c)(1)(B), the United States is hereby authorized to undertake whatever discovery is necessary to identify, locate, or dispose of the above-described property subject to forfeiture, or substitute assets for such property. Pursuant to Fed. R. Crim. P. 32.2(c)(1)(B), discovery shall be conducted in accordance with the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that upon adjudication of all third-party interests, if any, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32.2(c). If no third-party files a timely petition, this Order shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2). Pursuant to Fed. R. Crim. P. 32.2(b)(3), this First Preliminary Order of Forfeiture shall become final as to the Defendants at the time of sentencing and shall be made part of the sentence and included in the Judgment. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary concerning subsequently located or substitute property pursuant to Fed. R. Crim. P. 32.2(e).

Signed: May 20, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

